

assessment and collection of taxes, for the defraying of the expenses of organizing said county and for the payment of the proportion of the liabilities of the counties of Cameron and Hidalgo, chargeable, respectively, on the territory taken from them; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

And find the same correctly engrossed.

PATMAN, Vice Chairman.

#### TWENTY-SIXTH DAY.

(Tuesday, February 15, 1921.)

The House met at 4:03 o'clock p. m., pursuant to adjournment, and was called to order by Speaker Thomas.

The roll was called and the following members were present:

Aiken.	Hall.
Baker.	Hardin.
Baldwin.	Harrington.
Barker.	Harrison.
Barrett of Bell.	Henderson
Barrett of Fannin.	of McLennan.
Bass.	Henderson
Beasley	of Marion.
of Hopkins.	Hendricks.
Beasley	Hill.
of McCulloch.	Horton.
Beavens.	Johnson of Ellis.
Binkley.	Johnson
Black, O. B.,	of Wichita.
of Bexar.	Jones.
Black, W. A.,	Kacir.
of Bexar.	Kellis.
Bonham.	King.
Branch.	Lackey.
Brown.	Laird.
Bryant.	Lauderdale.
Burkett.	Lawrence.
Burmeister.	Lindsey.
Burns.	Looney.
Carpenter.	McDaniel.
Childers.	McFarlane.
Coffee.	McKean.
Cox.	McLeod.
Cummins.	Malone.
Curtis.	Martin.
Davis, John E.,	Marshall.
of Dallas.	Mathes.
Davis, John,	Melson.
of Dallas.	Menking.
Dinkle.	Merriman.
Duffey.	Miller of Dallas.
Duncan.	Miller of Parker.
Edwards.	Moore.
Estes.	Morris of Medina.
Faubion.	Morris
Fly.	of Montague.
Fugler.	Mott.
Garrett.	Neblett.
Greer.	Owen.

Patman.	Stewart of Reeves.
Perkins	Swann.
of Cherokee.	Sweet of Brown.
Perry.	Sweet of Tarrant.
Pollard.	Thomas
Pool.	of Limestone.
Pope.	Thomason.
Quaid.	Thompson
Quicksall.	of Harris.
Rice.	Thompson
Rogers of Harris.	of Red River.
Rogers of Shelby.	Thrasher.
Rosser.	Veatch.
Rountree.	Wadley.
Rowland.	Walker.
Satterwhite.	Wallace.
Schweppe.	Webb.
Shearer.	Wessels.
Sims.	West.
Smith.	Westbrook.
Sneed.	Williams
Stephens.	of McLennan.
Stevenson.	Williams
Stewart	of Montgomery.
of Edwards.	

Absent.

Laney.

Absent—Excused.

Adams.	Kveton.
Brady.	Leslie.
Chitwood.	McCord.
Crawford.	Morgan.
Crumpton.	Perkins of Lamar.
Darroch.	Quinn.
Grissom.	Seagler.
Hanna.	Teer.
Johnson	Thorn.
of Gillespie.	Wright.

A quorum was announced present.

Prayer was offered by Rev. J. C. Mitchell, Chaplain.

#### LEAVES OF ABSENCE GRANTED.

The following members were granted leaves of absence on account of important business:

Mr. Morgan for today and tomorrow, on motion of Mr. West.

Mr. Quinn indefinitely, on motion of Mr. Mott.

Mr. Kveton for today, on motion of Mr. Schweppe.

Mr. Grissom indefinitely, on motion of Mr. Branch.

Mr. Crawford for today, on motion of Mr. McFarlane.

Mr. Brady for today, on motion of Mr. Shearer.

Mr. Wright for today, on motion of Mr. McDaniel.

Mr. Crumpton for today and tomorrow, on motion of Mr. Marshall.

Mr. Pope for last Saturday, yester-

day and today, on motion of Mr. Bonham.

Mr. Thorn was granted leave of absence indefinitely on account of sickness. on motion of Mr. Duffey.

#### NOTICES GIVEN.

Mr. Curtis gave notice that he would on next Friday call up for consideration at that time House bill No. 72, which was laid on the table subject to call.

Mr. Owen gave notice that he would on tomorrow call up for consideration at that time House bill No. 93, which has heretofore been read second time and laid on the table subject to call.

Mr. Burkett gave notice that he would on next Monday call up for consideration at that time House bill No. 137, which was heretofore laid on the table subject to call.

#### BILLS ORDERED NOT PRINTED.

On motion of Mr. Jones, it was ordered that Senate bill No. 28 be not printed.

On motion of Mr. Rogers of Shelby, it was ordered that Senate bill No. 113 be not printed.

On motion of Mr. Thomason, it was ordered that House bill No. 301 be not printed.

On motion of Mr. Bonham, it was ordered that Senate bill No. 117 be not printed.

On motion of Mr. John Davis of Dallas, it was ordered that Senate bill No. 101 be not printed.

On motion of Mr. Thompson of Red River, it was ordered that House bill No. 336 be not printed.

#### ADDITION TO STANDING COMMITTEE.

On motion of Mr. Stewart of Reeves, Mr. Jones was added to the Committee on Conservation and Reclamation.

#### SENATE BILLS ON FIRST READING.

The following Senate bills were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

Senate bill No. 234, to the Committee on Banks and Banking.

Senate bill No. 225, to the Committee on Education.

#### REQUESTING REPORT FROM BOARD OF PRISON COMMISSIONERS.

Mr. Fly offered the following resolution:

H. C. R. No. 25, Requesting Prison Commission to submit report showing cost of new headquarters for the State Prison System.

Whereas, The maintenance of the headquarters of the State prison system at Huntsville, in Walker county, imposes a considerable and unnecessary expense upon the State in the operation of the State prison; and in the interest of economy and the more efficient management of the prison system such headquarters should be nearer to the prison property upon which the great majority of the State prisoners are employed; and

Whereas, There are at all times a considerable number of young men under twenty-four years of age in the State prison, mostly first offenders, with terms of service running from two to five years, must under the operation of our statutes serve with the older and often more hardened prisoners, thus negating much of the effort expended at reformation of such young men; and

Whereas, These young prisoners will soon be released by the expiration of their short terms and return to our social body either better or worse in character and purpose in life, representing either an asset or a liability to the State in the maintenance of law and order; and

Whereas, Experience has united all governments in the common agreement that young men of average intelligence whom it has been found necessary to place under restraint of liberty in the interest of public welfare and as further protection to the public against other acts of lawlessness upon their release, should be taught those things deemed essential to ready self-support, self-control and the fundamentals to right living: therefore be it

Resolved by the House of Representatives of Texas, the Senate concurring:

Section 1. That the Board of Prison Commissioners is hereby requested to submit to the Governor for transmission to the Legislature at such time as may be practicable a report on the approximate cost of construction of new headquarters buildings of such durable material as is necessary to employ in the construction of such buildings. In making such estimates of costs the commission shall take into consideration the use of State prison labor to the fullest extent practicable. The location of the new headquarters to be at such place on the prison property as the commission may deem most advisable for such pur-

poses, not more than forty miles from the city of Houston, in Harris county.

Sec. 2. That the Board of Prison Commissioners shall report the average number of State prisoners for each year during the past five years under the age of twenty-four, and serving terms of not more than five years; and the approximate cost and general adaptability of the present State prison headquarters at Huntsville to the purposes of a State Prison Reformatory, in which instruction in the manual arts and more ordinary useful trades may be given to such young prisoners, such manual instruction to be accompanied by any and all efforts at reformation of character as may be found practicable and profitable.

The resolution was read second time.

On motion of Mr. Merriman, the resolution was referred to Committee on Penitentiaries.

#### ADDRESS BY HON. J. W. CRUDGINGTON.

Mr. Satterwhite offered the following resolution:

Whereas, The Hon. J. W. Crudgington, an honored citizen of Potter county, is now in the city of Austin; and

Whereas, He has, with distinction, served his representative district and his State as a member of this body, winning the admiration and earning the esteem of his fellow-members: therefore be it

Resolved, That he be granted the privilege of the floor and that he be invited to address the House today at a convenient hour.

Signed—Satterwhite, Laney, Horton, Fly.

The resolution was read second time and was adopted.

In accordance with the above action, the Speaker appointed Mr. Satterwhite, Mr. Mathes and Mr. Hill to escort Mr. Crudgington to the Speaker's stand.

The Speaker then presented Mr. Crudgington, who addressed the House.

#### HOUSE BILL NO. 161 ON SECOND READING.

The Speaker laid before the House as a special order for this hour, on its second reading and passage to engrossment,

H. B. No. 161, A bill to be entitled "An Act to amend Chapter 160 of the Acts of the Regular session of the Thirty-sixth Legislature of the State of Texas, approved April 3, 1919, the same

being 'An Act regulating the employment of women and minors and establishing an Industrial Welfare Commission to investigate and deal with such employment, including the fixing of a minimum wage; providing for an appropriation therefor, and fixing penalties for the violation thereof, and declaring an emergency,' by providing for manner of selection and employment of said commission; providing additional powers and duties; providing for salaries; making appropriation therefor; fixing penalties for the violation thereof, and declaring an emergency."

The bill was read second time.

Mr. Miller of Dallas offered the following (committee) amendment to the bill:

Amend House bill No. 161 by striking out all after the enacting clause and substituting the following:

That Chapter 160 of the Acts of the Regular Session of the Thirty-sixth Legislature of the State of Texas, approved April 3, 1919, be amended so as hereafter to read as follows:

Section 1. There is hereby created a commission to be composed of three commissioners which shall be known as the Industrial Welfare Commission. The word "commission" hereinafter used refers to and means said Industrial Welfare Commission, and the word "commissioner" as hereinafter used refers to and means a member of the Industrial Welfare Commission. Said commissioners shall be appointed by the Governor. One of said commissioners shall be appointed for a term of two years, one for a term of four years and one for a term of six years; thereafter the term of office of each of said commissioners shall be six years. The Governor shall designate the terms of each of said three first appointees. Each commissioner shall hold office until his successor is appointed and qualified. Vacancies that may occur in the membership shall be filled by appointment by the Governor for the unexpired portion of the term in which such vacancy occurs.

Quorum of said commission is hereby declared to be the full membership thereof, but the act or decision of any two commissioners shall be deemed the act or decision of the commission. In the event a vacancy should occur then the two remaining commissioners shall constitute a quorum.

The Governor shall so select and appoint said commissioners so that at all times one of said commissioners shall be a representative of the employing class and one of said commissioners

shall be a representative of the employee class, and the third of said commissioners shall be a representative of the general public. The representative of the general public so appointed shall possess the qualifications now prescribed by law for a district judge in the State of Texas.

Each of said commissioners shall be an actual bona fide resident citizen of the State of Texas for five years next preceding the date of his appointment; that each of said commissioners shall take and subscribe to the same oath of office as provided by the Constitution for the Governor of this State, and whose appointment shall date from the time copy of said oath is filed in the office of the Secretary of State. The chairman of said commission shall be the representative of the general public.

Sec. 2. Each of said commissioners herein provided for shall be paid the salary of five thousand dollars (\$5,000) per annum, and shall be allowed all necessary traveling expenses.

The commission may employ a secretary, stenographers and one assistant secretary and not to exceed six investigators—to carry out the purposes of this act, and shall fix the compensation of such employees at not to exceed the sum of twenty-four hundred dollars (\$2,400) per annum—together with all necessary traveling expenses for said employees; each of said salaries shall be paid in equal monthly installments.

Sec. 2. (a) It shall be the duty of the commission to ascertain the wages paid and conditions of labor and employment in the various occupations, trades and industries in which women and minors are employed in the State of Texas, and to make investigations into the comfort, health and safety of such women and minors.

(b) It shall be the duty of every person, firm or corporation employing labor in this State:

(1) To furnish the commission, at its request, any or all reports or information which the commission may require pertaining to the working conditions and wages paid to women and minors to carry out the purposes of this act; such reports and information to be verified by oath of the person or a member of the firm, or the president, secretary or manager of the corporation furnishing same for and when requested by the commission or any member thereof.

(2) To allow any member of the commission, or its secretary, or any of its duly authorized employees, free access to the place of business or employ-

ment of such person, firm or corporation, for the purpose of making an investigation authorized by this act.

(3) To keep a register of the names, ages and resident address of all such women and minor employees.

(c) For the purpose of this act a minor is defined to be a person of either sex not over fifteen years of age.

Sec. 4. The commission may specify times to hold public hearings—at which time employers, employees or other interested persons may appear and give testimony as to the matter under consideration. The commission, or any member thereof, shall have power to subpoena witnesses and to administer oaths. All witnesses subpoenaed by the commission shall be paid the fee and mileage fixed by a law in civil cases. In case of failure on the part of any person to comply with any order of the commission, or any member thereof, or any subpoena, or upon the refusal of any witness to testify to any matter regarding which he may be lawfully interrogated before said commission, it shall be the duty of any district court, or the judge thereof, to whom application is made, on the application of a member of the commission, to compel obedience in the same manner, by contempt proceedings or otherwise, that such obedience would be compelled in a proceeding pending before said court. The commission shall have power to make and enforce reasonable and proper rules of practice and procedure and shall not be bound by technical rules of evidence.

Sec. 5. (a) The commission shall have further power after a public hearing, either upon its own motion, or upon petition, to fix:

(1) The standard conditions of labor demanded by the health and welfare of females and minors engaged in any occupation, trade or industry in this State. Said commission shall divide the State into zones or districts according to the character of employees therein, their living conditions and living costs in said zones or districts, and shall fix a separate and different wage in each of said zones or districts as may be a fair wage in same. After the creation and designation of said zones or districts by said commission, it shall further fix in each of said zones:

(2) A minimum wage to be paid women and minors engaged in any occupation, trade or industry in this State according to the character of the employees, their living conditions and living costs, which shall not be less than

a wage adequate to supply such females and minors the necessary cost of proper living, and to maintain the health and welfare of such females and minors; provided, however, that there shall be a different minimum wage fixed in said occupation, trade or industry for the employes therein of different classes—according to the actual minimum living costs of each of said classes.

(3) A separate or different minimum wage for learners, apprentices and minors from that fixed for experienced female employes, provided that in all cases where an employe is required or permitted to work less than four (4) hours in any one day, the commission shall have power to fix another additional or different minimum wage for such employe.

In all cases where any female or minor employe does not live at home, or with his or her relatives, the commission may, upon petition, in its discretion, if the facts warrant, fix another additional or different minimum wage for such employe, which said wage thereafter from time to time may be increased or diminished, based upon the actual living cost of said employe.

(4) That said commission is empowered and directed in each of said zones or districts so created by them to classify the several factories, industries and occupations into at least three classes, and to fix and apply what is commonly known as the key rate to each of said classes, to be known as class A, B, C, etc.—class B to be the one on which the minimum wage is based—to be known as the key rate.

In all the institutions, factories, trades, industries and occupations where the conditions are below class B same shall be known as class C, and the commission shall formulate and fix a higher minimum wage in proportion to the conditions existing in same.

In those institutions, factories, trades and industries and occupations not coming under either of the other classifications herein provided for, same shall be known as class A, and shall be given a lower minimum wage in proportion to the comforts, conveniences, betterments and other things furnished employes calculated to reduce the cost of living, and to better the working conditions and further protect the females' or minors' health or morals.

(b) Any person, firm or corporation owning, operating or conducting and trade, industry, occupation or factory coming under the provisions of this act, may, within sixty (60) days from the

date of appointment and qualification of said commission, file with said commission his, their or its petition setting forth in detail the living conditions and living costs of the female and minor employes employed or engaged, which would entitle said trade, industry, occupation or factory to a lesser minimum wage than that to be fixed by the commission for the zone or district in which it is located, or to a lesser minimum wage than that to be fixed for the several classes in the classification provided for in subdivision one of Section 5 hereof. Upon the filing of such petition the commission shall before it fixes any minimum wage that shall apply to said trade, industry, occupation or factory, investigate and inspect said properties and shall set said petition down for hearing and shall notify the owner, operator or manager of said trade, industry, occupation or factory of the date of hearing on same—which shall not be less than ten days from the date such notice is served. Upon such hearing the commission shall determine and fix a fair minimum wage to be paid to minors and female employes engaged in said trade, industry, occupation or factory. No minimum wage fixed by said commission shall affect or apply to any such owner, operator or manager who has filed his petition as provided for herein until after hearing by said commission on said petition.

5. (a) Any person, firm, association of persons or corporation owning, operating or conducting any institution, factory, trade or industry affected by the provisions of this act, may at any time file with the commission his, their or its petition setting forth the conditions existing in his, their or its particular institutions, factory, trade or industry that would entitle same to a different classification and minimum wage from that fixed by the commission. Upon the filing of said petition the commission shall, within sixty days from the date of the filing of said petition, inspect, or cause to be inspected, such institution, factory, trade or industry and inquire into, or cause to be inquired into, the minimum living costs, and moral conditions under which the female and minor labor is employed in same, and shall, if warranted by the facts, enter an immediate order reclassifying such institution, factory, trade or industry, and shall fix a lower minimum wage for same in accordance with the existing facts, taking into consideration the actual minimum living costs and conditions provided for the

health, comforts and moral betterments of such female or minor employes. Said minimum wage so fixed may be at a sum less than that fixed by the commission for class A herein provided.

(b) Upon the fixing of a time and place for the holding of a hearing for the purpose of considering and acting upon any matters referred to in subdivision (a) hereof, the commission shall give public notice by advertisement in at least one newspaper published in the county where the hearing is to be held, if a newspaper is published therein, and by mailing copy of said notice to the county clerk of such county where the hearing is to be held, and to the individual firm or corporation to be investigated, which notice shall state the time and place of such hearing to be held, which shall not be earlier than ten (10) days from the date of publishing and mailing such notice.

(c) After such public hearing the commission may, in its discretion, make a mandatory order to be effective in sixty days from the making of such order, specifying the minimum wage for women and minors in the occupation in question and the standard conditions of labor for said women and minors in said zone or in said occupation, trade, factory or industry.

Such order shall be published in at least one newspaper in said zone, and a copy thereof mailed to the county clerk of each county in said zone, and such copy shall be recorded without charge. Any owner, operator or manager of any such occupation, trade, industry or factory coming under the provisions of this act, and desiring copies of all orders of said commission, may file with the commission his, their or its name and postoffice address, and thereafter the commission shall cause to be sent by registered mail, with return receipts demanded, to each employer in the occupation in question a copy of all orders, judgments and decrees entered by said commission. No owner, operator or manager after filing his, their or its name and postoffice address shall be bound by any order, decree or judgment entered by the commission until the same has been duly received or served upon such owner, operator or manager; and each employer in the occupation in question, after notice of any such order served upon him, them, or it, as herein provided, shall be required to post a copy of such order in a conspicuous place in the building in which women and minors affected by the order are

employed. The posting in the United States postoffice of a registered letter containing notice herein provided shall be prima facie evidence of the fact that the employer received same. Finding by the commission that there has been such publication and mailing to and receipt of by the county clerk and the employer shall be necessary to service.

Sec. 6. Any occupation, trade or industry in or for which a minimum wage has been established under the provisions of this act, the county judge of the county in which they may reside, shall issue to any aged, defective or deficient, or cripple person subject to this act, a special license authorizing the employment of such person for a period of twelve (12) months for a wage less than such legal minimum wage, which license may be by the county judge of the county in which such female or minor may reside, at its expiration renew for a like period of twelve (12) months.

Said Board of Industrial Welfare in fixing the minimum wage for any female or minor who is a beginner, apprentice or learner, shall fix them at a wage at least thirty-three and one-third (33 $\frac{1}{3}$ %) per cent for the first six months, and twenty-four (24%) per cent for the second six months less than the minimum wage fixed for any experienced female or minor employe engaged in such occupation, trade or industry in like service, who have had one year, or longer, experience in same line of work.

Sec. 7. Any employer who discharges or threatens to discharge, or in any manner discriminates against any employe because such employe has testified, or is about to testify, or because such employer believes that said employe may testify in any investigation or proceeding relative to the enforcement of this act, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished by a fine of not less than ten dollars (\$10), nor more than one hundred dollars (\$100), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

Sec. 8. The minimum wage for women and minors fixed by said commission as in this act provided shall be the minimum wage paid such employes, and the payment to such employes of a less wage than the minimum wage so fixed shall be unlawful, and every employer, or other person, who, either individually or as an officer, agent or employe of a corporation or other person, pays or causes to be paid to any such

employe a wage less than such minimum wage shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars (\$10), nor more than one hundred dollars (\$100), or by imprisonment of not more than thirty (30) days in the county jail, or by both such fine and imprisonment.

Sec. 9. In every prosecution for the violation of any provision of this act the minimum wage established by the commission as herein provided shall be prima facie presumed to be reasonable and lawful, and to be the living wage required herein to be paid women and minors.

Sec. 10. Any party aggrieved thereby may commence action in the district court in and for the county in which the aggrieved party resides, against the commission for review of such determination. In service upon the secretary of the commission, or upon any member of the commission shall be deemed a complete service. The commission shall file its answer within twenty (20) days after the service of the complaint. With its answer the commission shall file its findings and determinations in the matter, and the cause shall be tried de novo.

Upon the setting aside of any determination, order or wage fixed by the commission, the court trying said cause shall enter such orders, judgments and decrees as the court shall find should have originally been made by the commission. The commission, or any party aggrieved by such decree, or judgment, of the district court, may appeal therefrom within time and manner provided for appeals from the orders and judgments of the district court in this State.

No criminal prosecution under Section 8 hereof shall be instituted or maintained for any violation of any provisions of this act committed during the pendency of said civil suit.

Sec. 11. In all prosecutions for the violation of any provisions of this act, and in all cases affecting any orders, judgment or decrees made by the commission, such provisions shall have precedence over all other cases pending in said court of a different nature, and in all cases where an appeal has been taken said appeal shall have precedence over all other cases of a different nature therein pending.

Sec. 12. Any employe receiving less than the minimum wage applicable to such employe, after same has been ascertained, determined and fixed by the commission, as herein provided for, shall

be entitled to recover, in a civil action, the unpaid balance of the full amount of such minimum wage, together with costs of suit, and an additional amount not to exceed twenty dollars (\$20) for attorney's fees, notwithstanding any agreement to work for such lesser wage.

Sec. 13. Any person or persons for whom the commission may have established a minimum wage may register a complaint with the commission that the wages paid to him or them are less than that the rate fixed, and the commission shall thereupon investigate the matter and take all proceedings necessary to enforce the payment of such established minimum wage.

Sec. 14. The commission shall biennially make a report to the Governor and the State Legislature of its investigations and proceedings.

Sec. 15. All papers, documents, records, office furniture, etc., now or which hereafter may be in possession of the Industrial Welfare Commission, created by Chapter 160 of the Acts of the Thirty-sixth Legislature of the State of Texas, shall be delivered to the commission herein provided for.

Sec. 16. There is hereby appropriated out of the moneys of the State Treasury, not otherwise appropriated, the sum of fifty thousand dollars (\$50,000), or as much thereof as may be necessary, to be used by the commission in carrying out the provisions of this act to August 31, 1921, and the Comptroller is hereby directed from time to time to draw warrants upon presentation of properly itemized, verified and approved vouchers on the general fund in favor of the commission for the amounts expended under its direction, and the Treasurer is hereby authorized and directed to pay the same.

Sec. 17. (a) Whenever this act, or any part or section thereof, is interpreted by a court, it shall be liberally construed by such court.

(b) If any section, sub-section or subdivision of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, sub-section, subdivision, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, sub-sections, subdivisions, sentences or clauses or phrases is declared unconstitutional.

Sec. 18. The provisions of this act shall apply to and include women and minors employed in any occupation,

trade or industry and whose compensation for labor is measured by time, piece or otherwise.

Sec. 19. The fact that the present law on this subject is unworkable and that the welfare of the women and minors of Texas demands suitable legislation, creates an emergency and an imperative public necessity requiring that the constitutional rule requiring bills to be read on three several days be suspended, and the same is hereby suspended, and that this act shall take effect from and after the date of its passage, and it is so enacted.

Mr. Miller of Dallas offered the following (committee) amendments to the (committee) amendment:

(1)

Amend Section 18 of the (committee) amendment No. 1 as follows:

"Except those engaged as domestic servants, nurses, student nurses, farm and ranch labor, and students in schools and colleges, while actually attending such schools and colleges during their session or in vacation and who are working their way through such schools and colleges, either in whole or in part; and all telephone exchanges in towns and cities and villages whose population was 2,000 or less at the last Federal census."

(2)

Amend (committee) amendment No. 1 to House bill No. 161 by adding a section which shall be known as Section 19, and renumbering the succeeding sections to correspond to the number of this section, and providing that the commission shall make no order fixing any wage until after the expiration of sixty days from the time this law shall go into effect.

The amendments to the (committee) amendment were severally adopted.

Mr. John Davis of Dallas offered the following substitute for the (committee) amendment:

Amend House bill No. 161 by striking out all after the enacting clause and insert in lieu thereof an amendment by way of substitute the following:

Section 1. There is hereby created and established a Commission to be known as the Industrial Welfare Commission, hereinafter called the "Commission." The said Commission shall be composed of three persons, as follows: One member shall be a person fairly representative of the employing class, one shall be a person fairly representative of the laboring class and one shall be

a person who is representative of the general public. The members of the Commission shall be appointed by the Governor for a term of six years, provided that the first appointments shall be made, one for a term of two years, one for a term of four years, and one for a term of six years, all vacancies to be filled by appointment of the Governor for the unexpired term.

The Governor shall, at the appointment of the first Commission, designate one member as chairman of the Commission. Two members of the Commission shall constitute a quorum for the transaction of business and a vacancy on the Commission shall not impair the right of the remaining members to perform all the duties and exercise all the powers of the Commission.

The Commission shall be provided with offices in the Capitol building or some other suitable building in the city of Austin and shall be paid a salary of three thousand six hundred (\$3600) per annum, and shall be allowed actual and necessary traveling expenses within the appropriation made by the Legislature for that purpose. It shall also be allowed a secretary at a salary not to exceed two thousand four hundred (\$2400) dollars per annum, three investigators at salaries not to exceed two thousand (\$2000) dollars per annum each, necessary clerical and office help at salaries not to exceed one thousand five hundred (\$1500) dollars per annum each, and actual and necessary office expenses, postage, etc., within the appropriation made by the Legislature. All salaries to be paid monthly as in the case of other State officers and employes.

Sec. 2. It shall be the duty of the Commission to ascertain the wages paid, the hours and conditions of employment in the various occupations, trades and industries in this State, and to make investigations into the comfort, health, safety, cost of living and welfare of women and minors employed in commercial, industrial, mercantile or other occupations.

Sec. 3. It shall be the duty of every person, firm, corporation or association of persons employing women or minors in this State: to furnish the Commission at its request any and all reports or information which the Commission may require pertaining to the working conditions and wages paid women and minors to carry out the purposes of this act; such reports or information to be verified by the oath of the person, or a member of the firm, or the presi-



dent, secretary or manager of the corporation furnishing same, if and when requested by the Commission or any member thereof. To allow any member of the Commission, its secretary or any of its duly authorized employees free access to the place of business or employment of such person, firm, corporation or association of persons for the purpose of making any investigation authorized by this act, relating to the working conditions or wages of women and minors; to keep a register of the names, ages and residence addresses of all women and minors employed.

Sec. 3. For the purposes of this act, a minor is defined to be a person of either sex under the age of fifteen years.

Sec. 4. The Commission may specify times and places to hold public hearings, at which times and places employers, employees and interested persons may appear and give testimony as to the matter under consideration. The Commission or any member thereof, or the secretary or any investigator employed by said Commission, shall have power to subpoena witnesses, and to administer oaths. All witnesses subpoenaed by the Commission shall be paid the fee and mileage provided by law in civil cases. In case of the failure or refusal on the part of any person to comply with any order of the Commission or any member thereof, or any subpoena, or upon the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated before the Commission or any member thereof, or before any duly authorized representative of the Commission, it shall be the duty of any district judge or court to whom application is made by the Commission or any member thereof, or by any duly authorized representative of the Commission, to compel obedience in the same manner, by contempt proceedings or otherwise, that such obedience would be compelled in a proceeding before said court. The Commission shall have power to make and enforce reasonable and proper rules not inconsistent with this act, and shall not be bound by technical rules of evidence.

Sec. 4. The Commission shall have further power, after a public hearing before the Commission or any member thereof or before the secretary or any investigator employed by said Commission, and upon its own motion or upon petition to fix:

1. A minimum wage to be paid women and minors engaged in any oc-

cupation, trade or industry in this State, which shall not be less than a wage adequate to supply such women and minors the necessary cost of proper living, and to maintain the health and welfare of such women and minors.

2. The standard conditions of labor demanded by the health and welfare of the women and minors employed or engaged in any occupation, trade or industry in this State.

3. To divide the State into districts or zones as nearly as may be in accordance with the working conditions and cost of living found in the various sections of the State, and may fix a different minimum wage for women and minors when in their judgment the conditions existing in the zones or districts demand.

4. To further subdivide the districts or zones by classifying the cities and towns in each district or zone according to population as given in the latest United States census report, and to fix a different minimum wage for each class where the conditions are found to warrant same.

Sec. 5. Upon the fixing of a time and place for the holding of a hearing for the purpose of considering and acting upon any of the matters referred to in Section 2 hereof, the Commission shall give notice to the public by advertising in at least one newspaper in the county in which the hearing is to be held, and by mailing a copy of said notice to the county clerk of the county in which the hearing is to be held, which notice shall state the time and place of such hearing to be held, which shall not be earlier than ten days from the date of publishing and mailing such notice.

After such public hearing the Commission may, at its discretion, make a mandatory order to be effective in not less than sixty days from the date of such order, specifying the minimum wage to be paid women and minors in the occupation, trade or industry and the standard conditions of labor for such women and minors; provided, however, that such order may only affect one or more districts or zones as fixed by the Commission.

Such order shall be published in at least two daily newspapers in each district or zone, provided there be that number of such newspapers, and a copy shall be mailed to the county clerk of each county in the district or zone, and shall be recorded in a suitable record book to be kept by each county clerk

for such purpose, and no charge shall be made for recording same.

The Commission shall furnish to each employer affected, where the address can be obtained, or upon request, a copy of all orders promulgated by the Commission, and such order or orders must be posted by such employer in a conspicuous place in the place of business or employment where women or minors are employed.

Failure of the employer to receive such notice shall not relieve from the duty to comply with such order. Finding by the Commission that there has been such publication and mailing to the county clerk shall be conclusive to the service.

Sec. 6. Whenever wages or conditions of labor have been so made mandatory in any occupation, trade or industry, the Commission may at any time in its discretion, upon its own motion, or upon petition, of either employers or employees, after a public hearing held upon notice hereinbefore provided, rescind, alter or amend any prior order. Any order rescinding, altering or amending a prior order shall have the same force and effect as herein provided for an original order.

Sec. 7. For any occupation, trade or industry in which a minimum wage for women and minors has been established, the Commission may issue a special permit or license to any person subject to this act, who, by reason of age or mental or physical defect, cannot attain average efficiency, to work for less than the minimum wage, provided, that the whole number of such defectives at no time exceeds ten per cent of the whole number of women and minors employed in such establishment, where more than ten persons subject to the act are employed. The Commission shall fix a special minimum wage for such aged or defective person.

Sec. 8. Upon application being made to the Commission, apprentices or learners in any occupation, trade or industry may be granted a special permit or license to work for less than the minimum wage fixed for experienced workers in any occupation, trade or industry, such lesser minimum wage to be fixed by the Commission for one or more periods of six months, such periods to be regulated by the Commission in accordance with the time which in their judgment is required to enable a worker of average ability to become proficient in her employment. The number of apprentices or learners in any

establishment shall be regulated by the Commission.

Sec. 9. Any employer who discharges, or threatens to discharge, or in any other manner discriminates against any employee because such employee has testified, or is about to testify, or because such employer believes such employee may testify in any investigation or proceeding relative to the enforcement of this act, or who shall violate any of the provisions of Section 2 of this act, or who shall disregard a lawful, mandatory order of the Commission, shall be deemed guilty of a misdemeanor, and upon conviction in any court of competent jurisdiction shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00), or by imprisonment in the county jail for a period not to exceed six months, or by both such fine and imprisonment.

Sec. 9. The minimum wage for women and minors fixed by the Commission under the provisions of this act shall be the least wage paid such women and minors, and the payment of a lesser wage in any trade, occupation or industry, except as herein provided, where a minimum has been fixed by the Commission, shall subject such employer to the penalties provided in the preceding section. Provided, further, that nothing in this act shall be construed as preventing any employer of women or minors, in any occupation, trade or industry from paying a higher wage than the minimum wage fixed by the Commission in such occupation, trade or industry.

Sec. 10. In every prosecution for violation of the provisions of this act the minimum wage established by the Commission as herein provided shall be prima facie presumed to be reasonable and lawful, and to be the living wage required herein to be paid to women and minors. The finding of facts made by the Commission acting within its powers shall, in the absence of fraud, be conclusive; and the determinations made by the Commission shall be subject to review only in a manner and on the grounds following: Within thirty days from the date of determination, any party aggrieved thereby may commence action in the district court in and for the county in which the aggrieved party resides, or in the district court of Travis county, against the Commission for review of such determination. In such action a complaint which shall state the grounds upon which a review is sought shall be served with the sum-

mons, service upon the secretary of the Commission or upon any member of the Commission, shall be deemed a complete service. The Commission shall file its answer within twenty days after the service of the complaint. With its answer, the Commission shall make a return to the court of all documents and papers on file in the matter, and of all testimony and evidence which may have been taken before it and of its findings and determinations in the matter. The action may thereupon be brought on for hearing before the court upon such record by either party on ten days' notice to the other. Upon such hearing the court may confirm or set aside such determination, but the same shall be set aside only upon the following grounds:

(1) That the Commission acted without or in excess of its powers, or on insufficient grounds.

(2) That the determination was secured by fraud.

Upon the setting aside of any determination the court may recommit the controversy and remand the record in the case to the Commission for further proceedings. The Commission, or any party aggrieved by a decree entered upon a review of a determination, may appeal therefrom within the time and in the manner provided for an appeal from the orders of the said district court.

Sec. 11. All standards of labor arrived at in any determination of the Commission must be uniform throughout all districts or zones or subdivisions thereof, and the same basis for determining the cost of living shall be used throughout the State by the Commission.

Sec. 12. Any employe receiving less than the minimum wage applicable to such employe shall be entitled to recover in a civil action the unpaid balance of the full amount of such minimum wage, together with cost of suit, and an additional amount for attorney's fees, said fees to be determined by the court, notwithstanding any agreement to work for a lesser wage.

Sec. 13. Any person or persons for whom the Commission may have established a minimum wage may register a complaint with the Commission that the wages paid to her or them are less than the rate fixed by the said Commission, and the Commission shall thereupon investigate the matter and proceed in such manner as is necessary to enforce payment of such established wage under the provisions of this act.

Sec. 14. The Commission shall make a biennial report to the Governor and to the Legislature, covering all business, investigations and determinations of the Commission for the preceding biennial period.

Sec. 15. There is hereby appropriated out of the moneys of the State Treasury, not otherwise appropriated, the sum of twelve thousand dollars (\$12,000), to be used by the Commission in carrying out the purposes of this act for the balance of the fiscal year ending August 31, 1921. The Comptroller is hereby directed from time to time to draw warrants upon the presentation of properly itemized, verified and approved vouchers on the general fund in favor of the Commission for the amounts expended under its direction, and the Treasurer is hereby authorized and directed to pay the same.

Sec. 16. Whenever this act, or any part or section thereof, is interpreted by a court, it shall be liberally construed by such court.

Sec. 17. If any section, sub-section or subdivision of this act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the act. The Legislature hereby declares that it would have passed this act, and each section, sub-section, subdivision, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections, sub-sections, subdivisions, sentences, clauses or phrases is declared unconstitutional.

Sec. 18. Chapter 160, Acts of the Regular Session of the Thirty-sixth Legislature, approved April 3, 1919, and all laws or parts of laws in conflict or inconsistent with this act are hereby repealed.

Sec. 19. The fact that the present minimum wage law is in many respects unworkable, and that there are now hundreds of thousands of women and girls who are forced to work for less than a living wage, which constitutes a serious menace to the physical, mental and moral welfare of society, creates an emergency and an imperative public necessity requiring that the constitutional rule requiring bills to be read on three several days be, and the same is hereby suspended, and that this act shall take effect and be in force from and after its passage, and it is so enacted.

Question—Shall the substitute be adopted?

## MESSAGE FROM THE SENATE.

Senate Chamber,  
Austin, Texas, February 15, 1921.

Hon. Charles G. Thomas, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has passed

S. B. No. 64, A bill to be entitled "An Act to amend Section 1 of Chapter 27, of an act passed at the Regular Session of the Thirty-second Legislature, entitled 'An Act to provide additional compensation of all judges of the district courts, district attorneys of the State of Texas, and to the judges of the Criminal District Courts of Harris and Galveston counties, by allowing compensation for actual and necessary expenses when engaged in the discharge of their official duties in counties other than the county of their residence'; and providing that this act shall apply to the judges of all of the Criminal District Courts of this State, and to repeal all laws and parts of laws in conflict therewith, and declaring an emergency."

S. B. No. 77, A bill to be entitled "An Act to fix the status of checks of drafts, when the maker or drawer thereof shall have died between the date of the check or draft and its presentation for payment, and declaring an emergency."

S. B. No. 79, A bill to be entitled "An Act to provide for the examination and certification of professional engineers and architects and to regulate the practice of engineering and architecture."

S. B. No. 94, A bill to be entitled "An Act creating the Weslaco Independent School District in Hidalgo county, Texas; defining its boundaries; providing for a board of trustees in said district; conferring upon said district and its boards of trustees all the rights, powers, privileges and duties now conferred and imposed by the general laws of Texas upon independent school districts and the boards of trustees thereof; declaring that all taxes or bonds heretofore authorized by any former school district included within the bounds thereof shall remain in full force and effect; providing for the appointment of an assessor and collector of taxes and board of equalization for said district, and declaring an emergency."

S. B. No. 95, A bill to be entitled "An Act to amend Section — of Chapter 81 of the Local and Special Laws of the State of Texas passed by the Thirty-sixth Legislature at its Regular Session, so as to redefine with greater certainty

the territory within the Donna Independent School District, and declaring an emergency."

S. B. No. 155, A bill to be entitled "An Act creating the Laneville Independent School District of Rusk county; defining its boundaries; vesting it with the rights, powers, duties and privileges of districts incorporated for school purposes only under the general laws; providing for a board of trustees therefor, and declaring an emergency."

S. B. No. 157, A bill to be entitled "An Act making it unlawful for any person to use or remove from its moorings, without the owner's consent, any boat of any size, character or kind, or to remove therefrom any oar or oars, row-locks, oar-locks, anchor, anchor-chains, anchor-rope, paddles, seats, planks, poles or rigging of any kind belonging to such boat or vessel, that are capable of being operated on the bays, lakes and rivers, oceans or waters of this State, and declaring an emergency."

S. B. No. 202, A bill to be entitled "An Act to authorize water improvement districts or conservation and reclamation districts which may be operating under contract with the United States Government to acquire, construct, operate, lease or otherwise control, use or employ water power facilities and plants for the generation of electric energy; providing the authority to incur necessary indebtedness for the accomplishment of such purposes, and declaring that such obligation shall constitute a lien only upon the physical plant, distributing equipment and other property created by and for the development of such water power or electrical energy; authorizing such districts to contract with like districts in other States; to contract such power privileges forming a part of the property of such district for use by municipalities or others, and to supply municipalities or others with any product or service developed by or incident to the operation of the district; authorizing such districts to jointly construct, own and operate any such irrigation or power development projects, and to make contracts with reference to privileges, uses, operation and distribution of all products of such districts, and fixing of liens thereof, and declaring an emergency."

Has refused to pass

S. B. No. 105, A bill to be entitled "An Act to amend Article 29, Title 5, of the Revised Civil Statutes of Texas, 1911, and to create the Tenth Supreme Judicial District of Texas, and to provide for the organization of a Court of

Civil Appeals within the Tenth Supreme Judicial District of Texas and fixing the time when this act shall become effective and providing for the appointment of the judges thereof, and repealing all laws and parts of laws in conflict therewith."

Has adopted

S. J. R. No. 1, Proposing an amendment to Section 2, Article 6, of the Constitution of the State of Texas by providing that only native born or naturalized citizens of the United States shall be qualified electors in this State, and permitting either the husband or the wife to pay the poll tax of the other and receive the receipt therefor, and permitting the Legislature to authorize absentee voting."

And has refused to engross

S. B. No. 150, A bill to be entitled "An Act to amend Chapter 1, Title 135, of Revised Civil Statutes of Texas, 1911, relating to wills by adding thereto Article 7857a, providing that clauses in wills attempting to prevent contests thereof shall be void."

Respectfully,

A. W. HOLT,

Assistant Secretary of the Senate.

#### RECESS.

Mr. Miller of Dallas moved that the House recess until 9:30 o'clock a. m., tomorrow.

Mr. Jones moved that the House adjourn until 10 o'clock a. m., tomorrow.

The motion to recess prevailed, and the House accordingly, at 5:10 o'clock p. m., took recess until 9:30 o'clock a. m. tomorrow.

#### TWENTY-SIXTH DAY.

(Continued.)

(Wednesday, February 16, 1921.)

The House met at 9:30 o'clock a. m., and was called to order by Speaker Thomas.

#### HOUSE BILL NO. 161 ON ENGROSSMENT.

The House resumed consideration of the pending special order, same being House bill No. 161, regulating the employment of women and minors and establishing an Industrial Welfare Commission to investigate and deal with such employment, on its passage to engrossment, with (committee) amendment by Mr. Miller of Dallas and substitute by Mr. John Davis of Dallas for the (committee) amendment, pending.

Mr. Morgan moved to table the substitute.

Yeas and nays were demanded, and the motion to table was lost by the following vote:

Yeas—54.

Bass.	Miller of Dallas.
Beasley	Morgan.
of Hopkins.	Morris of Medina.
Beavens.	Mott.
Binkley.	Nehlett.
Bonham.	Perry.
Branch.	Pool.
Brown.	Pope.
Burkett.	Quaid.
Burns.	Quicksall.
Carpenter.	Rountree.
Crawford.	Rowland.
Cummins.	Schweppe.
Dinkie.	Sims.
Duncan.	Sneed.
Harrington.	Stephens.
Henderson	Stewart
of McLennan.	of Edwards.
Johnson	Stewart of Reeves.
of Wichita.	Swann.
Jones.	Thomas
Kellis.	of Limestone.
King.	Thompson
Laney.	of Harris.
Lawrence.	Thompson
Lindsey.	of Red River.
Looney.	Wadley.
McFarlane.	Walker.
McKean.	Webb.
Melson.	Williams
Merriman.	of McLennan.

Nays—63.

Aiken.	Fly.
Baker.	Fugler.
Baldwin.	Garrett.
Barker.	Greer.
Barrett of Bell.	Hall.
Barrett of Fannin.	Harlin.
Beasley	Harrison.
of McCulloch.	Henderson
Black, O. B.,	of Marion.
of Bexar.	Horton.
Black, W. A.,	Johnson of Ellis.
of Bexar.	Kear.
Bryant.	Kveton.
Burmeister.	Lackey.
Childers.	Laird.
Coffee.	Lauderdale.
Cox.	McDaniel.
Crompton.	McLeod.
Curtis.	Malone.
Davis, John E.,	Martin.
of Dallas.	Marshall.
Davis, John.	Mathes.
of Dallas.	Menking.
Duffey.	Miller of Parker.
Estes.	Moore.
Faubion.	